

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI D. KARUNAKARA RAO, AM AND
SHRI LALIET KUMAR, JM**

आयकर अपील सं. / ITA No.366/PUN/2019
निर्धारण वर्ष / Assessment Year : 2014-15

Sadguru Nagari Sahakari Pat.
Sanstha Maryadit,
S.No.47, Plot No.54,
R.K. Apartments, Viveknagar,
Akurdi, Pune-411035.

PAN : AABAS5448Q

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-9(4),
Pune.

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sunil Ganoo
Revenue by : Shri Deepak Garg

सुनवाई की तारीख / Date of Hearing : 04.02.2020
घोषणा की तारीख / Date of Pronouncement : 05.02.2020

आदेश / ORDER

PER D. KARUNAKARA RAO, AM:

This appeal filed by the assessee is against the order of the Pr. CIT-5, Pune passed u/s 263 of the Act dated 28.12.2018 for the assessment year 2014-15. The Pr.CIT revised the order of the Assessing Officer with a view to deny the claim of deduction u/s 80P of the Act in respect of the interest income earned on FDs with Banks.

2. Before us, at the outset, ld. Counsel for the assessee submitted that this is a case where the Pr. CIT assumed the jurisdiction for taxing the interest receipts received from the Cooperative Bank on the FDs kept by the

assessee out of the excess funds. Further, ld. Counsel submitted that there are various decisions in favour of the assessee and granted deduction u/s 80P of the Act. Referring to the decision of Pune Bench of the Tribunal and others, ld. Counsel submitted that the deduction u/s 80-P of the Act is available in respect of the said interest receipts. Arguing that the Pr. CIT assumed jurisdiction invalidly, ld. AR mentioned that the Pr.CIT ignored the view taken by the Assessing Officer and attempts to review the order of the Assessing Officer by invoking the provisions of section 263 of the Act to thrust his view on the issue. Stating that the said jurisdiction of the Pr. CIT is incorrect, ld. Counsel relied on the following decisions in support of the case of the assessee :-

- (i) Sumitra Gramin Bigar Sheti Sahakari Pat. Sanstha Maryadit vs. ITO (ITA No.1109/PUN/2017 dated 13.06.2018);
- (ii) ITO vs. Sureshdada Jain Nagri Sahakari Patsanstha (ITA No.589/PUN/2016 dated 28.11.2018); and,
- (iii) CCIT vs. Buchireddy Palem Co-operative Rural Bank Ltd., 396 ITR 371.

3. Referring to the above cited decisions, ld. Counsel for the assessee submitted that the deduction u/s 80-P of the Act is available in respect of the interest receipts.

4. We heard both the parties on this issue of Pr.CIT's jurisdiction. It is a settled issue that the deduction is available u/s 80P of the Act in respect of the interest receipts from the Bank on FDs. Further, it is also a settled issue that the Assessing Officer's view cannot be replaced by the view of the Pr.CIT. In fact the Hon'ble Supreme Court's judgement relied upon by the Pr.CIT is

not on correct facts. After hearing both the sides and considering the above cited decisions (supra), we find the jurisdiction assumed by the Pr. CIT is invalid. Accordingly, the relevant ground raised by the assessee is allowed.

5. In the result, the appeal of the assessee is allowed.

Order pronounced on this 05th day of February, 2020.

Sd/-

(LALIET KUMAR)

न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(D. KARUNAKARA RAO)

लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 05th February, 2020.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-5, Pune.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.